

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL J. BELLEAU,

Plaintiff,

v.

Case No. 12-C-1198

KEVIN C. GREENE,

Defendant.

ORDER DENYING “MOTION FOR NO EVIDENCE”

Plaintiff Michael J. Belleau filed this action on November 27, 2012. He initially sought to proceed *in forma pauperis* but was denied. He paid his filing fee on December 3, 2012, but has, at least as the record shows to this point, failed to serve a copy of the summons and complaint on the defendant. Plaintiff previously moved for summary judgment, even before he paid the filing fee, and now has filed a “Motion for No Evidence” seeking essentially the same relief. In his motion, Belleau states that “after an adequate time for discovery by the respondent, the movant now asks the Court for summary judgment on the ground that there is no evidence of one or more essential elements of the claim or defense on which an adverse party would have the burden at trial.” In essence, Belleau’s motion is a renewed motion for summary judgment. For the following reasons, the motion will be denied.

The defendant has not filed an appearance or a response to the complaint. Although Belleau has attached a U.S. Postal Service document suggesting that the defendant may have received the service packet that he was provided, the defendant has not filed the waiver of personal service and,

in any event, the time to respond has not yet expired. Until defendant actually files a response or the time in which to do so expires, Belleau is not entitled to the relief he seeks. Accordingly, the motion is denied.

Dated this 7th day of February, 2013.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court